

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
 Plaintiff,) 8:06CR50
)
 v.)
)
RUDOLPH GEORGE STANKO,)
)
 Defendant.)
)

Before the court is defendant's motion for reconsideration, Filing No. 276, and motion for release, Filing No. 277. Defendant moves this court to reconsider allowing him access to privileged and confidential telephone communications for his sentencing. Evidently Thomas Riley, Douglas County Public Defender, has been retained to represent Mr. Stanko in an unrelated case in state court. Mr. Riley sent Mr. Stanko a letter informing him that his phone calls are taped by the prison officials. The defendant asks this court to order the Correctional Center to discontinue taping his phone conversations. The Eighth Circuit has held that an inmate impliedly consents to the taping of jailhouse calls. *United States v. Morin*, 437 F.3d 777, 780 (8th Cir. 2006). Defendant has knowledge of the monitoring, and if he uses the telephones, he does so at his own risk. See also *United States v. Hatcher*, 323 F.3d 666, 675 (8th Cir. 2003).

Defendant again asks this court to order the jail to release his confiscated materials. The court previously ruled on this same motion, Filing No. 277, and will not do so again.

THEREFORE, IT IS ORDERED that defendant's motion for reconsideration, Filing No. 276, is denied, and defendant's motion to release confiscated materials, Filing No. 277, is denied.

DATED this 18th day of January, 2007.

BY THE COURT:

s/Joseph F. Bataillon
Chief United States District Judge